

FACTSHEET

TITLE: **STREET VACATION NO. 01024**, requested by Carl J. Sjulín, David H. Sjulín and Kathryn Sjulín Lonowski, to vacate the west 60.15 feet of Wagon Lane from the south line of Outlot B to the north line of Outlot C, Frontier Acres, generally located at So. 62nd Street and Wagon Lane.

STAFF RECOMMENDATION: A finding of conformance with the Comprehensive Plan with conditions of approval.

ASSOCIATED REQUESTS: Change of Zone No. 3375 (02-170); Waiver of Design Standards No. 02020 (02R-276); and Use Permit No. 146 (02R-277).

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 10/16/02
Administrative Action: 10/16/02

RECOMMENDATION: A finding of conformance with the Comprehensive Plan with conditions of approval, as amended (5-4: Bills-Strand, Krieser, Larson, Duvall and Schwinn voting 'yes'; Steward, Carlson, Newman and Taylor voting 'no').

FINDINGS OF FACT:

1. This street vacation is associated with Waiver of Design Standards No. 02020, Change of Zone No. 3375 and Use Permit No. 146. The street vacation and waiver of design standards had public hearing before the Planning Commission on October 16, 2002. The change of zone and use permit had public hearing before the Planning Commission on September 18 and October 2, 2002.
2. The staff recommendation to find the proposed street vacation to be in conformance with the Comprehensive Plan, with conditions of approval, is based on the "Analysis" as set forth on p.3, concluding that if this street vacation were approved as requested, Outlot C would lose its access. Access to Outlot C must be provided before this portion of Wagon Lane can be vacated. (***Editorial Note:*** Condition #1.2 which complies with this staff conclusion was deleted by the Planning Commission, p.4)
3. The applicant's testimony is found on p.5-6.
4. There was no testimony in opposition.
5. The Planning Commission discussion with staff is found on p.6-7.
6. On October 16, 2002, the Planning Commission voted 5-4 to find the proposed street vacation to be in conformance with the Comprehensive Plan, with amendment deleting Condition #1.2 and adding language to Condition #1.3, which deletes the requirement for a turnaround. (See Minutes, p.7-9, and p.4).
7. The City Clerk has determined that the provisions of Chapter 14.20 of the Lincoln Municipal Code have been met.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: October 29, 2002

REVIEWED BY: _____

DATE: October 29, 2002

REFERENCE NUMBER: FS\CC\2002\SAV.01024

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

P.A.S.: Street & Alley Vacation #01024

DATE: October 2, 2002

PROPOSAL: To vacate the west 60.15 feet of Wagon Lane from the south line of Outlot B to the north line of Outlot C, Frontier Acres.

LAND AREA: 3,609 square feet, more or less

CONCLUSION: If this application were approved as requested, Outlot C would lose its access. Access to Outlot C must be provided before this portion of Wagon Lane can be vacated.

<u>RECOMMENDATION:</u>	Conforms to the Comprehensive Plan
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GENERAL INFORMATION:

LEGAL DESCRIPTION: The west 60.15 feet of Wagon Lane from the south line of Outlot B to the north line of Outlot C, Frontier Acres Addition, located in the NW 1/4 of Section 16, T9N, R7E of the 6th P.M., Lancaster County, Nebraska.

LOCATION: Wagon Lane and S. 62nd Street

APPLICANT: Michael Johnson
Olsson Associates
1111 Lincoln Mall
Lincoln, NE 68501
(402) 474-6311

OWNER: Carl J. Sjulín, David H. Sjulín and Kathryn Sjulín Lonowski
c/o West Gate Bank
1204 West "O" St.
Lincoln, NE 68528
(402) 434-3456

<u>CONTACT:</u>	Darrell K. Stock 1115 "K" Street - #104 Lincoln, NE 68508 (402) 476-3345	Michael Johnson Olsson Associates 1111 Lincoln Mall Lincoln, NE 68501 (402) 474-6311
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SURROUNDING LAND USE AND ZONING:

North:	AGR and R-1	Single family house and Old Cheney Road
South:	AGR	Vacant
East:	AGR	Acreages
West:	AGR	Acreage

HISTORY:

December 4, 1970	City Council approved the Frontier Acres Final Plat.
January 23, 2002	Planning Commission approved Street & Alley Vacation #01024 with conditions.
August 8, 2002	Administrative Final Plat #02053, West Gate Bank Addition was submitted. The plat combines Lots 157 I.T., 130 I.T., 46 I.T., Outlot B and Outlot C into one lot.
October 1, 2002	West Gate Bank requested that Street & Alley Vacation #01024 be returned to Planning Commission for reconsideration.

COMPREHENSIVE PLAN SPECIFICATIONS: The Southeast Lincoln/Highway 2 Subarea Plan designates this land as Office and Parks and Open Space. The plan states:

The land is now designated for transitional office and open space uses in the subarea plan. Future specific site plans will preserve open space, trees, provide landscaped buffer to the adjacent neighbors, enhance the Highway 2 entryway, and provide for transportation improvements required by the office use. (p 11, Southeast Lincoln/Highway 2 Subarea Plan)

TRAFFIC ANALYSIS: The Comprehensive Plan classifies Wagon Lane as a local street.

AESTHETIC CONSIDERATIONS: This portion of Wagon Lane and the abutting Outlots are intended to serve as open space between the acreages and future office development to the west.

ANALYSIS:

1. The vacation of this portion of Wagon Lane would prevent the future office uses from driving through the acreage area, which would help buffer the neighbors from the commercial as it develops.
2. The original intent was to extend Wagon Lane to the west into the adjoining property when that property developed. If Wagon Lane were not extended into the abutting land, a permanent turn around would be required by the Land Subdivision ordinance.
3. If this application were approved, Outlot C would lose its access to a public street. The vacation will require a subdivision to provide street access to Outlot C.

4. Public Works recommends that approval of this vacation not take place until that time the petitioner has submitted a plat to create the required turnaround.

BEFORE THE VACATION REQUEST IS SCHEDULED ON THE CITY COUNCIL AGENDA THE FOLLOWING MUST BE COMPLETED:

- 1.1 The provisions of Chapter 14.20 of the Lincoln Municipal Code are met.
- ~~1.2 Before this portion of Wagon lane can be vacated, the property owners must terminate the street as required by Section 26.23.080 of the Subdivision Ordinance. This section states that "All permanent dead-end streets shall have a sixty-foot minimum radius turnaround."~~
(Per Planning Commission: 10/16/02**)**
- 1.3 The abutting owners have submitted a final plat that would eliminate any existing lots that do not front on and have access to a public street or private roadway and all requirements of the final plat have been completed, except for the transfer of ownership of the vacated street to the owners, and except for the turnaround on a dead-end street. **(**Per Planning Commission: 10/16/02**)**

Prepared by:

Tom Cajka
Planner

WAIVER OF DESIGN STANDARDS NO. 02020
and
STREET VACATION NO. 01024

PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 16, 2002

Members present: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Taylor, Duvall and Schwinn.

Staff recommendation: Denial of Waiver of Design Standards No. 02020, and a finding of conformance with the Comprehensive Plan on Street Vacation No. 01024, with conditions of approval.

Proponents

1. Steve Miller of Olsson Associates presented the applications, which is tied to the proposed West Gate Bank headquarters building which the Planning Commission recommended for approval at the last meeting. The street vacation is needed to complete the final plat to put all the property together and proceed on to the City Council.

Miller believes the waiver of the turnaround requirement is justified due to the existing conditions in the area. The existing conditions are that Wagon Lane has not yet been constructed even though designated as a right-of-way, and it has been in this condition for over 20 years. So. 62nd Street provides the only street connection to Wagon Lane and is a gravel driveway which serves two residential properties. So. 62nd Street is also gated on the south end and does not proceed any further south. Miller indicated that he had spoken with Kay Olson who lives on the south lot, 6101 Wagon Lane, and she has indicated that the property owners are responsible for maintaining So. 62nd Street, providing their own snow removal and the rock and gravel when that street is needed to be upgraded.

Miller acknowledged that the staff did offer one alternative; that is, to request the vacation of the entire Wagon Lane up to 62nd Street. This alternative was raised by staff on the condition that the applicant approach the property owners to discuss the vacation. West Gate Bank declined to do so. However, Miller did speak with Mrs. Olson and she indicated she would not be in favor because her address is off of Wagon Lane and it would be an inconvenience. She has lived in that house for over 20 years.

Miller respectfully requested approval of the waiver so that West Gate Bank can proceed with this signature building and development at this site.

Steward recalled the previous hearings on this issue and believes that at that time the indication was that West Gate Bank should work out something with the property owners. Did West Gate Bank decline to approach the property owners? Miller indicated that he was instructed by West Gate Bank

not to approach the property owners; however, he did talk with Mrs. Olson, who has indicated she is not interested in that vacation. Only one of the property owners was contacted. There was no testimony in opposition.

Staff questions

Steward confirmed with staff that the properties east of 62nd Street are acreages. Tom Cajka of Planning staff concurred. Steward further commented that this is one of the areas where there has been considerable discussion about urbanizing and the build-through conditions. Ray Hill of Planning staff indicated that the Hawkswood Estates subdivision is located several hundred feet to the east where there were several acreage owners that went together to lay out a street pattern and lot arrangements to subdivide their larger lots down to a more urban size project, but it did not include this land nor the land immediately east of 62nd Street.

Steward inquired whether there is an impact to this particular street in question (Wagon Lane) and 62nd Street? Is there potential future traffic relationships that we should take into account? Dennis Bartels of Public Works stated that the reason he made the recommendation that the turnaround should be addressed now is because the existing right-of-way extends into this West Gate Bank project. If it would have stayed as a residential use, the street would have been required to be extended into West Gate Bank and a cul-de-sac created. When it comes to subdivision of this property, the responsibility for meeting the subdivision standards and dedicating the right-of-way will fall on the two residential properties on Wagon Lane. They could vacate the whole street if both parties were willing, or it could be shortened with a cul-de-sac built half-way between the two. If one side wants to subdivide and the other does not, then the requirement could fall on one property owner. He did not believe it was fair to place the responsibility on the two east property owners because they were not parties to this vacation.

Bartels also clarified that 62nd Street and Wagon Lane are in the city limits now and could be served with sewer and water today, so he does not believe the build-through requirements being discussed really apply to this area.

Carlson sought confirmation that the staff recommendation seeks to avoid shifting the Bank's burden onto the two property owners. The question is: Do we know if the two property owners care? He is concerned that the bank has not talked with both of them. Cajka indicated that they would have received notice of this public hearing from the Planning Department. But Carlson does not believe the staff report indicates that those two property owners have any responsibility.

Bartels further clarified that Wagon Lane is not improved. He is not necessarily asking that a turnaround be constructed with this project. His concern is that the right-of-way issue be taken care of. He is not in favor of a dead-end street with no provisions for turnaround because it can be subdivided.

Bills-Strand referred to the map on p.75 of the agenda. If subdivision were to occur off Wagon Lane with a cul-de-sac, wouldn't the smartest way be to move the cul-de-sac more to the east to have lots

off the west side of the cul-de-sac? Bartels agreed. If both property owners were subdividing at the same time, that would be the smartest thing to do. But if they do not both want to subdivide, then the one property owner may be forced to put in the cul-de-sac, dedicating the right-of-way off his side and dedicating the entire length. Bills suggested that even if West Gate Bank was there and was participating, and the property owner to the north did not want to subdivide, that is still going to be the case and the majority of the cul-de-sac would come off the south property line. Bartels suggested that the entire cul-de-sac could have been dedicated on the West Gate Bank property. By vacating, it shifts the responsibility to those two property owners and there are ways that it could be taken care of, but he has not heard that those property owners have been contacted.

Public hearing was closed.

WAIVER OF DESIGN STANDARDS NO. 02020

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 16, 2002

Steward moved to deny, seconded by Taylor.

Steward thinks this is an action created by a developer without due regard to the city's requirements or the appreciation of the difficult position in which it puts the other two property owners. He believes there is more than one solution. If design proximity of a potential on-bank property is a consideration, they could purchase the right-of-way from the other two property owners and settle it in another way. It is being created by the Bank's action and he believes they need to solve it.

Schwinn will vote against the motion. He believes this would be an exercise in futility to make any efforts to decide now what the two property owners want to do in the future. If they cared, they would be here to say something.

Motion to deny failed 4-5: Steward, Carlson, Newman and Taylor voting 'yes'; Bills-Strand, Krieser, Larson, Duvall and Schwinn voting 'no'.

Duvall moved approval, seconded by Larson and carried 5-4: Bills-Strand, Krieser, Larson, Duvall and Schwinn voting 'yes'; Steward, Carlson, Newman and Taylor voting 'no'.

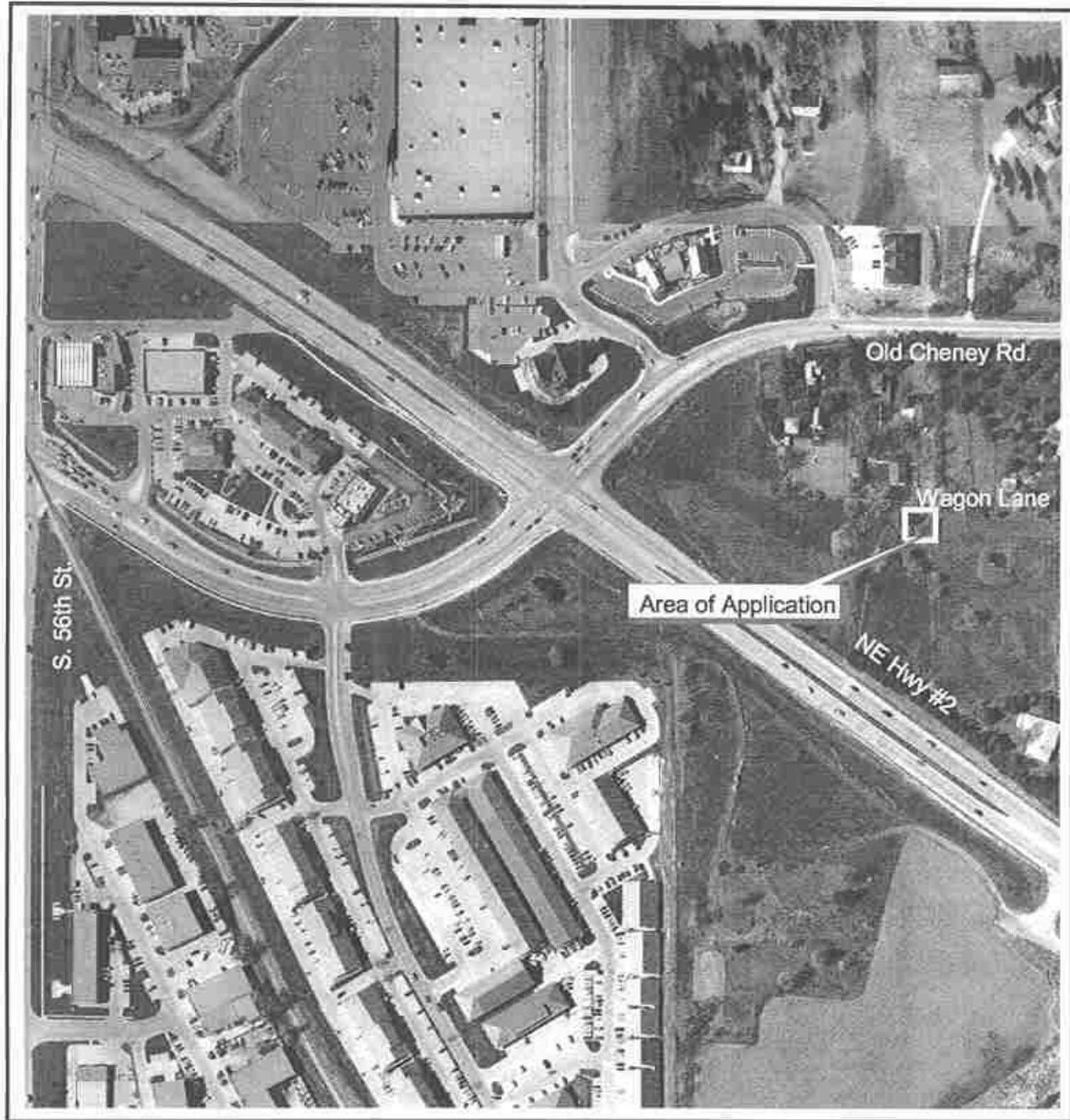
STREET VACATION NO. 01024

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 16, 2002

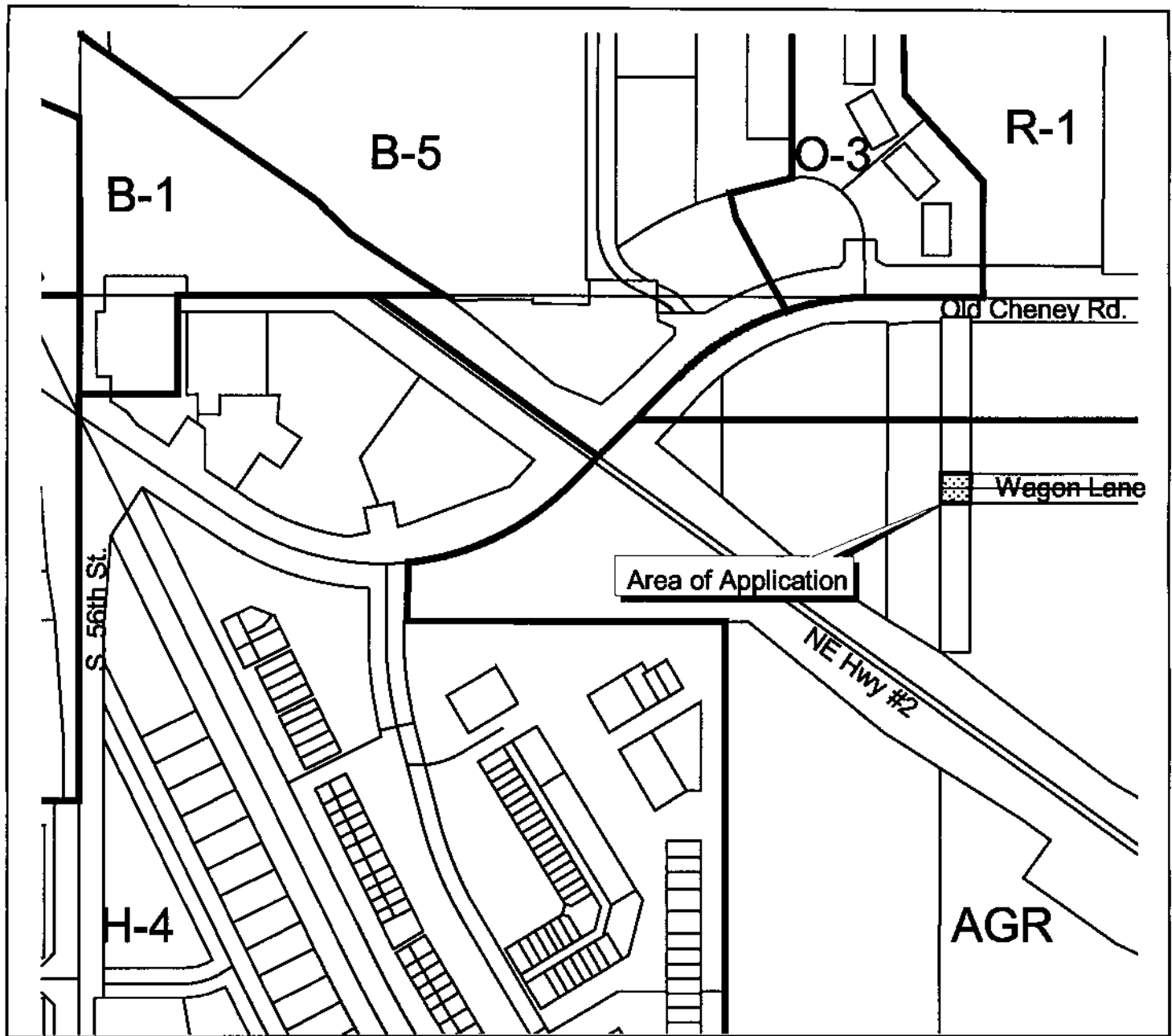
Tom Cajka of Planning staff advised that approval of Waiver of Design Standards No. 02020 would change the conditions of approval on this street vacation. Condition #1.2 should be deleted and Condition #1.3 should be amended to add language that all conditions of the final plat must be met except for the turnaround on a dead-end street.

Duvall moved a finding of conformance with the Comprehensive Plan, with amendments to the conditions as set forth above, seconded by Larson and carried 5-4: Bills-Strand, Krieser, Larson, Duvall and Schwinn voting 'yes'; Steward, Carlson, Newman and Taylor voting 'no'.



**Street & Alley Vacation #01024
SE of 56th & Old Cheney Rd.**



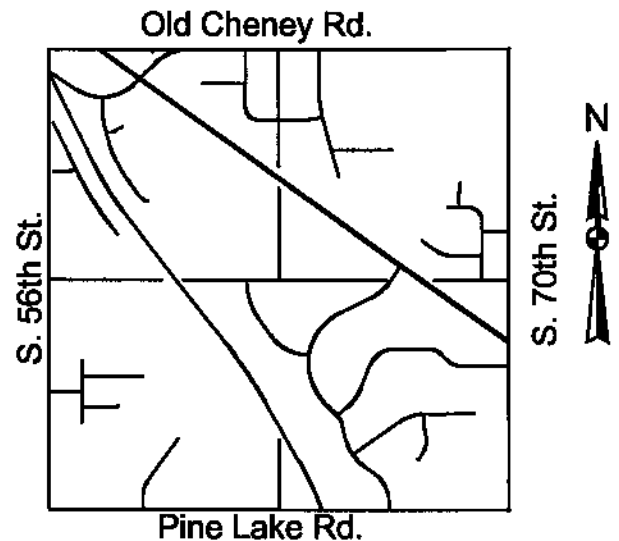
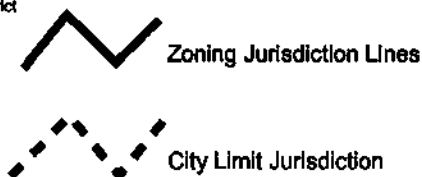


Street & Alley Vacation #01024 SE of 56th & Old Cheney Rd.

Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile
Sec. 16 T9N R7E



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August 9, 2002

Lincoln City/Lancaster County
Planning Commission
Lincoln, Nebraska 68508

RE: Vacating the West 60.15 Feet of Wagon Lane from the South Line of Outlot B to the North Line of Outlot C in Frontier Acres.


Dear Ladies and Gentlemen:

The Department of Public Works and Utilities has received sufficient and proper petitions from Carl Sjulín, David Sjulín, and Kathryn Sjulín Lonowski, owners of Lot 46 Irregular Tract located in the northwest quarter of Section 16, Township 9 North, Range 7 East, Lancaster County, Nebraska, and Outlots B and C Frontier Acres, to vacate the above described public right-of-way. Petitioner is requesting this vacation in order to develop the adjacent lots

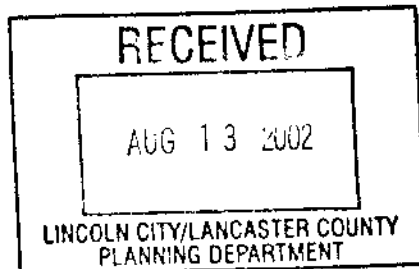
There are no existing utilities in this area. Potential easements would be requested at time of redevelopment of adjoining lots.

The City of Lincoln Land Subdivision ordinance requires that dead-end streets be terminated with a cul-de-sac. The original intent of the platted street was to extend it west into the adjoining property. The proposed land use may not make this extension desirable. The vacation will require a subdivision to provide access to the outlot south of Wagon Lane. The re-platting needs to provide a permanent cul-de-sac termination in accordance with subdivision requirements. Approval of this vacation should not take place until that time the petitioner has submitted a plat to create the required turnaround. This vacation contains an area of 3,609 square feet, more or less.

Sincerely,


Byron Blum
Engineering Services

cc: Mayor Wesely
Allan Abbott
Marvin Krout
Marc Wullschleger
Roger Figard
Nicole Fleck-Tooze
Joan Ross
Clint Thomas
Dana Roper



Wagon Ln Vac Ltr tdm .wpd

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OLSSON ASSOCIATES
ENGINEERS • PLANNERS • SCIENTISTS • SURVEYORS

October 1, 2002

Mr Greg Schwinn, Chair
City-County Planning Commission
555 South 10th Street
Lincoln, NE 68508

RE: West Gate Bank, Right of Way Vacation SAV#01024
OA Project No. 2002.0690

Dear Mr. Schwinn,

On behalf of West Gate Bank I am requesting that the Planning Commission recall it's recommendation to the City Council that a turnaround be required with the vacation of the 60 feet of right of way in Wagon Lane.

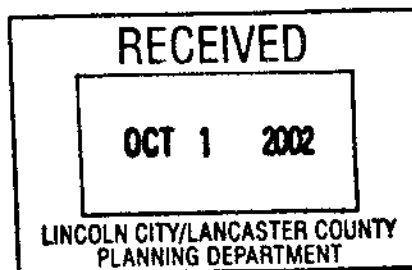
The request for this vacation was made by the attorney for the previous owners of the property. The Planning Commission approved the request on January 23, 2002.

Thank you for your careful consideration of this request. Please contact me if you have any questions or need additional information.

Sincerely,


Mark C. Palmer

CC Ray Hill, Planning Department
City Clerk



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9 July 2002

Ms. Joan Ross
City Clerk
555 South 10th Street, Room 103
Lincoln, NE 68508

Re: Petition To Vacate Public Way
Wagon Lane
West Gate Bank
OA Project No. 2001-0077

Dear Joan:

On behalf of Carl J. Sjulín, Trustee of the Carl J. Sjulín Revocable Trust, West Gate Bank, 1204 West "O" Street, Lincoln, Ne 68528, Phone Number (402) 434-3450, David H. Sjulín, Trustee of the David H. Sjulín Revocable Trust, 615 South 123rd Street, Omaha, Ne 68154, Phone Number (402) 697-9875, and Kathryn Sjulín Lonowski, Trustee of the Kathryn Sjulín Lonowski Revocable Trust, 2412 Rollingwood Drive, Ft. Collins, Co 80525, Phone Number (790) 493-7886, We are requesting to vacate a portion of Wagon Lane Right-Of-Way. Attached are the completed Petitions To Vacate Public Way Forms with legal description and exhibit.

Please call, if you require further information or have any questions.

Sincerely,

Michael R. Johnson, R.L.S.

Enc.

cc Carl J. Sjulín
David H. Sjulín
Kathryn Sjulín Lonowski

June 27, 2002 (10:44AM)
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